

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

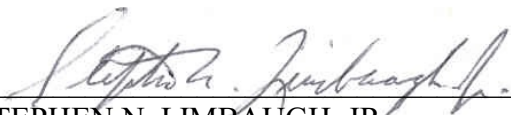
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|---------------------------|---|---------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 1:11CR00083 SNLJ |
| |) | |
| JAMES TEBEAU, |) | |
| |) | |
| Defendant. |) | |

ORDER

IT IS HEREBY ORDERED that the report and recommendation of United States Magistrate Judge Lewis M. Blanton (#52), filed on December 12, 2011 be and is **SUSTAINED, ADOPTED and INCORPORATED** herein. In addition, to the extent the Magistrate's report and recommendation "misinterpreted" defendant's position that "§ 856 (a)(2). . .requires that in order for a defendant to be convicted, he must be the one manufacturing, distributing or using controlled substances," the result is no different. Defendant's position, as recounted in his objections, is simply that "the government must demonstrate that he made his property available for use to others with the illegal purpose in mind." As the government aptly notes, however, "this argument is not relevant to any discussion as to whether the indictment is sufficient as a matter of law." The indictment tracks the language of the statute, § 856(a)(2), and defendant's argument is more appropriately addressed to the sufficiency of proof that must be shown at trial.

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss Indictment (#34) be **DENIED**.

Dated this 31st day of January, 2012.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE